



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/685,175	10/10/2000	Yasuyuki Ogawa	B208-1109	3320

26272 7590 08/09/2004

COWAN LIEBOWITZ & LATMAN P.C

JOHN J TORRENTE

1133 AVE OF THE AMERICAS

1133 AVE OF THE AMERICAS

NEW YORK, NY 10017

EXAMINER

LONG, HEATHER R

ART UNIT

PAPER NUMBER

2615

DATE MAILED: 08/09/2004

9

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/685,175

Applicant(s)

OGAWA, YASUYUKI

Examiner

Heather R Long

Art Unit

2615

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 May 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 11-13, 16, and 19 is/are allowed.
- 6) ☒ Claim(s) 1-10, 14, 15, 17 and 18 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☒ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 1, 7, 14, 15, 17, and 18 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 1, 7, 14, 15, 17, and 18 are indefinite because they recite the limitation: "a decision device which decides whether displaying of the photo-taken image obtained by the photo-taking operation is to be **finished or not** by a user's request after an operation of the photo-taking start instruction operation member is canceled". The phrase "finished or not" is not clear because the image is already being displayed on the display device, therefore, the image is already finished. Also that phrase cannot be in reference to the photo-taking operation because it states right after that phrase that the photo-taking start instruction operation member is canceled. Furthermore, in order to examine these claims the Examiner interprets that phrase to mean "turned off or not".

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1-4 are rejected under 35 U.S.C. 102(e) as being anticipated by Suzuki (U.S. Patent 6,359,649).

The applied reference has a common assignee with the instant application. Based upon the earlier effective U.S. filing date of the reference, it constitutes prior art under 35 U.S.C. 102(e). This rejection under 35 U.S.C. 102(e) might be overcome either by a showing under 37 CFR 1.132 that any invention disclosed but not claimed in the reference was derived from the inventor of this application and is thus not the invention “by another,” or by an appropriate showing under 37 CFR 1.131.

Regarding claim 1, Suzuki discloses an image pickup apparatus, comprising: a photo-taking start instruction operation member (35) which gives an instruction for starting a photo-taking operation; a display device (19) which displays a photo-taken image obtained by the photo-taking operation in response to the photo-operation; and a decision device which decides whether displaying of the photo-taken image being displayed by the display device in response to the photo-taking operation is to be finished or not by a user's request after an operation of the photo-taking start instruction operation member (SW2) is canceled (Fig. 6; col. 10, lines 3-10). It is inherent that the image pickup apparatus contains a decision

device in order to determine whether or not to display the image or to determine if the timer had finished counting up.

Regarding claim **2**, Suzuki discloses a display an image pickup apparatus wherein the decision device decided whether displaying of the photo-taken image is to be kept, by an operation of an external operation member different from the photo-taking start instruction operation member (col. 9, lines 21-30 and 57-59). The external operation member (mode setting dial) selects whether or not to turn the display on and for how long the display will be on for.

Regarding claim **3**, Suzuki discloses an image pickup wherein the decision device includes keeping instruction operation member which gives an instruction for keeping displaying of the photo-taken image, and, when the keeping instruction operation member is not operated, decides that displaying of the photo-taken image is not to be kept (col. 9, lines 21-30 and 57-59). The mode setting dial can turn on or turn off the display device. Also the mode setting dial selects how long the image will be displayed.

Regarding claim **4**, Suzuki discloses an image pickup wherein displaying of the photo-taken image decided to be kept by the decision device is cancelled by an operation of the photo-taking start instruction member (col. 8, lines 39-44 and 55-59). Suzuki discloses that it is possible to set the pre-confirmation image to adopt an arrangement which is capable of continuing to display a still image only while the shutter

button (35) is being depressed to the first stroke position. Suzuki also further states that the post-confirmation display is displayed in a manner similar to the pre-confirmation display, therefore allowing the post-confirmation to adopt an arrangement which is capable of continuing to display a still image only while the shutter button (35) is being depressed to the second stroke position.

Regarding claim **6**, Suzuki discloses an image pickup apparatus, wherein the image pickup apparatus includes a camera (103) (Fig. 1).

Regarding claim **14**, this is a method claim corresponding to the apparatus claim 1. Therefore, claim 14 is analyzed and rejected as previously discussed to claim 1.

Claim Rejections - 35 USC § 103

3. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

4. Claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over Suzuki as applied to claim 1 above, and further in view of Fellegara et al. (U.S. Patent 6,441,854).

Regarding claim **17**, Suzuki differs from claim 17 in that claim 17 further a computer program product adapted for an image pickup apparatus.

Referring to the Fellegara et al. reference, Fellegara et al. discloses in Fig. 19 a computer hooked up to an image pickup apparatus.

Art Unit: 2615

Therefore, in order to run the image pickup apparatus from the computer there must be a program on the computer to implement the instructions.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have combined the teachings of Fellegara et al. with Suzuki to take the limitations from claim 1 and implement them using a computer program to allow the image pickup to run more efficiently.

Allowable Subject Matter

5. Claim 5 objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

6. The following is a statement of reasons for the indication of allowable subject matter: an image pickup apparatus, further comprising: a processing device which, in a state where displaying of the photo-taken image is kept by the decision device, applies a predetermined processing operation to the photo-taken image the displaying of which is kept.

7. Claims 7-10, 15, and 18 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action.

8. The following is a statement of reasons for the indication of allowable subject matter: Prior art fails to teach or fairly suggest an image pickup apparatus, comprising:

Art Unit: 2615

- a. A display device which displays a photo-taking image obtained by a photo-taking operation in response to the photo-taking operation; a decision device which decides whether displaying of the photo-taken image being displayed by the display device in response to the photo-taking operation is to be finished or not by a user's request; and a **processing device which, before a state where displaying of the photo-taken image is finished by the decision device, applies a predetermined processing operation to the photo-taken image** (claim 7).
 - b. Claim 15 is a method claim corresponding to the apparatus claim 7. Therefore, claim 15 is analyzed and objected to as previously discussed to claim 7.
 - c. Claim 18 is a computer program implementing the limitation as described in claim 7. Therefore, claim 18 is analyzed and objected to as previously discussed to claim 7.
9. Claims 11-13, 16, and 19 are allowed.
10. The following is an examiner's statement of reasons for allowance: Prior art fails to teach or fairly suggest an image pickup apparatus, comprising:
 - a. A display device which displays a photo-taken image obtained by a photo-taking operation in response to the photo-taking operation, the display device keeping displaying of the photo-taken image; **and a processing device which, in a state where displaying of the photo-taken image is kept by the display device, applies a predetermined**

Art Unit: 2615

processing operation to the photo-taken image the displaying of which is kept (claim 11).

b. Claim 16 is a method claim corresponding to the apparatus claim 11. Therefore, claim 16 is analyzed and allowed as previously discussed to claim 11.

c. Claim 19 is a computer program implementing the limitation as described in claim 11. Therefore, claim 19 is analyzed and objected to as previously discussed to claim 11.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Conclusion

11. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory

Art Unit: 2615


action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Heather R Long whose telephone number is 703-305-0681. The examiner can normally be reached on Mon. - Thurs.: 7:00 am - 4:30 pm, and every other Fri.: 7:00 am - 3:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Christensen can be reached on (703) 308-9644. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

HRL
August 6, 2004


TUAN HO
PATENT EXAMINER